

## Message Text

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72

ORIGIN OPIC-12

INFO OCT-01 NEA-10 ISO-00 EB-11 L-03 /037 R

66612

DRAFTED BY:OPIC:CFLIPMAN

4/3/74 EXT 21766

APPROVED BY:E/IFD/OIA:MKENNEDY

OPIC/LA/F:PDWCOUNTS EB/IFD/OIA:WHCOURTNEY

NEA/PAB:ASCHIFFERDECKER

SPECIAL CHARGE: OPIC

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P 032157Z APR 74

FM SECSTATE WASHDC

TO AMEMBASSY KABUL PRIORITY

UNCLAS STATE 067286

E.O. 11652: N/A

TAGS: EFIN

SUBJECT: YAQUB LEATHER INDUSTRIES INCORPORATED

REF: A. KABUL 1935

B. STATE 058219

C. KABUL 1705

D. STATE 046869

1. STILL AWAITING TARAKI'S FULL REPORT MENTIONED PARA 2 REF. A.
  2. OF COURSE, OPIC DOES NOT CARE WHICH GOA LAW GRANTS FULL TAX EXEMPTION TO OPIC. HOWEVER OPIC DOES WANT SOMETHING SPECIFIC AND AUTHORITATIVE TO ESTABLISH THAT AFGHAN LAW DOES GRANT SUCH EXEMPTION IN VIEW OF; (I) LANGUAGE OF FDPIL, EXTENDING "SCOPE" OF FDPIL TO "ALL NEW, PRIVATE (REPEAT PRIVATE) INVESTMENTS IN AFGHANISTAN BY ANY REAL PERSON OR NON-GOVERNMENTAL (REPEAT NON-GOVERNMENTAL) LEGAL ENTITY...", SINCE, IN NORMAL USAGE, "INVESTMENT" WOULD NOT BE THE SAME AS THE PROJECT INTO WHICH THE INVESTMENT IS MADE (AND THEREFORE PRIVATE OWNERSHIP OF YLI WOULD NOT CHARACTERIZE OPIC'S LOAN); (II) WARNING GIVEN TO LIPMAN OF OPIC IN JULY 1973 BY ROBERT HAGER (THEN ADVISER
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FOR ONE YEAR TO AFGHAN SUPREME COURT AND MINISTRY OF JUSTICE) TO

EFFECT PARA 2 REF B; AND (III) LIKELIHOOD THAT THERE ARE FEW, IF ANY, PRECEDENTIAL RULINGS ON WHICH TO BASE OPINIONS REFERRED TO PARA 1 REF. A.

3. AS ALTERNATIVE TO CLEAR STATEMENT IN AFGHAN LAW THAT LOANS FROM FOREIGN GOVERNMENTS ARE EXEMPT FROM TAXATION IT WOULD BE SECOND BEST IF GOA OFFICIAL, SUCH AS MENTIONED PARA 3 REF A, WITH AUTHORITY TO BIND GOA, ISSUES UNQUALIFIED WRITTEN STATEMENT THAT OPIC IS EXEMPT (AT LEAST FOR YLI PROJECT) FROM ALL AFGHAN TAXES, INCLUDING TAXES ON INTEREST, THE "SUQUQ" TAX, TAXES ON REGISTERING LOANS, MORTGAGES AND OTHER SECURITY INTERESTS, AND TAXES TO ENFORCE OPIC LOAN AGREEMENT AND SECURITY INTERESTS IN AFGHANISTAN; AND IF TARAKI'S LEGAL OPINION EXPRESSLY STATES THAT OPIC IS SO EXEMPT AND THAT SUCH GOA OFFICIAL IS AUTHORIZED SO TO BIND GOA.

4. AS LAST RESORT, SINCE OPIC IS EXCEPTIONALLY INTERESTED IN SEEING THAT YLI PROJECT GO FORWARD, IF AUTHORIZED GOA OFFICIAL CANNOT BE FOUND, OPIC WOULD ACCEPT SUCH WRITTEN STATEMENT FROM GOA OFFICIAL COGNIZANT IN TAX/INDUSTRIAL AFFAIRS WHO, IN OPINION OF EMBASSY, KNOWS CORRECT RULES AND WHOSE STATEMENT WOULD FULLY COUNTER CONTRARY POSITION IF TAKEN BY GOA IN FUTURE. WOULD ALSO NEED TARAKI OPINION THAT OPIC IS SO EXEMPT.

5. PLEASED THAT AFGHAN PARTIES AGREE FDPIL PLACES NO TIME LIMIT ON TAX EXEMPTIONS AS MENTIONED PARA 1 REF A. AS USG AGENCY OPIC WANTS ASSURANCE IT IS SUBJECT TO NO GOA TAX, NOT MERELY TAX ON INTEREST INCOME REFERRED TO IN FDPIL, ALTHOUGH ANY TAX WHICH MAY BE ASSESSED ON OPIC IS PASSED ON TO YLI BY THE OPIC LOAN AGREEMENT.

6. PLEASE PASS COPY OF THIS TELEGRAM TO TARAKI.

7. PLEASE ADVISE EXPECTED DEPARTURE DATE(S) OF MATHUR AND KEENE.

8. EMBASSY ASSISTANCE GREATLY APPRECIATED IN ADVISING HOW BEST TO AVOID HINDERING SUCCESS OF PROJECT. RUSH

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## Message Attributes

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